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Docket No. 20

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U. S. Department of Agriculture

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

AMENDMENTS
TO
MARKETING AGREEMENT FOR DRY SKIM MILK

Issued by the Secretary of Agriculture, May 16, 1934.

Effective date May 20, 1934 (12:01 A.M., Eastern Standard Time).

AMENDMENTS

TO

MARKETING AGREEMENT FOR DRY SKIM MILK

WHEREAS, the Secretary of Agriculture of the United States, approved and executed a Marketing Agreement for Dry Skim Milk on September 8, 1933, the effective date of which was September 16, 1933; and

WHEREAS, the last paragraph of Article X thereof provides as follows:

"This Agreement, or any part thereof including Schedules A, B, C, D, E and F may be amended by a vote of two thirds of the Committee. Such changes shall be effective only with the written approval of the Secretary. Provided, however, that before such amendment shall be filed with the Secretary all the parties to this Agreement shall be notified in writing by the Managing Agent of such proposed changes and shall be allowed ten days to present objections to such proposed changes to the Committee. Immediately after any such amendment becomes effective, the Managing Agent of the Committee shall send written notification thereof to each of the manufacturers."; and

WHEREAS, the Secretary finds that the Committee established pursuant to Article IV of said agreement, in compliance with the foregoing provisions thereof, has amended Schedules C, D and F of said agreement in the following respects:

1. By striking from Schedule C the following:

- Class A. Carload--Base price as provided below.
(single delivery)
- Class B. Carload, shipments within 60 days (split deliveries) 1/4¢ per lb. over Class A.
- Class C. Lots of 6 tons or over in one shipment 3/8¢ per lb. over Class A.
- Class D. Lots of 1 to 5 tons in one shipment 1/2¢ per lb. over Class A.
- Class E. Less than 1 ton lots in one shipment 5/8¢ per lb. over Class A.
- Class F. Two or more cars--Shipment within 60 days (C.L.). Base price subject to jobbers discount.

and by adding in lieu thereof the following:

- Class A. Carload base price, as provided below
(single delivery)
- Class B. Lots of one ton or more, in one shipment,
1/4¢ per lb. over Class A.
- Class C. Lots of less than one ton, in one shipment,
3/8¢ per lb. over Class A.
- Class D. Two or more cars, shipment in 60 days (C.L.)
Base price subject to not over 1/4¢ per lb.
quantity discount to users only.

2. By striking from Schedule D all of Section IV thereof
to-wit:

"Contract periods shall not be for more than two calendar months and shall begin January 1, March 1, May 1, July 1, September 1, and November 1, and shall terminate not later than the last day of the month preceding the next contract period. The announcement of prices for any contract period shall be made on or about the 15th day of the month preceding said contract period. No contract shall be made for delivery in the next period more than 15 days before the beginning of the said next period."

and by adding in lieu thereof the following:

"Contract periods shall not be for more than 60 days from date of contract. No contracts shall be postdated."

WHEREAS, the Secretary further finds that the Managing Agent, Roud McCann, has, pursuant to the authority vested in him by the Committee, amended Section 1 of Schedule D, to read as follows:

"I. JOBBING DISCOUNTS

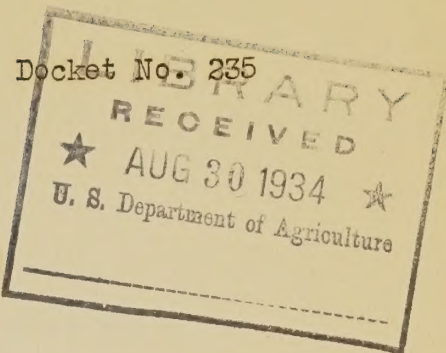
Recognized jobbers shall be entitled to a discount of not more than 1/4¢ per pound on sales in Classes A, B and C of Schedule C."

NOW THEREFORE, I, Henry A. Wallace, do hereby approve the foregoing amendments, in the City of Washington, District of Columbia on this the 16th day of May, 1934, and declare said amendments to be effective on and after 12:01 A.M. eastern standard time, May 20th, 1934.

Henry A. Wallace

Secretary of Agriculture.

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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

PROPOSED AMENDMENT
TO THE MARKETING AGREEMENT
FOR DRY SKIM MILK

This Proposed Amendment in its present form is proposed as the basis of a public hearing for the above-mentioned industry, and none of the provisions contained herein are to be regarded as having received the approval of the Agricultural Adjustment Administration as applying to this industry.

(THIS IS NOT FOR SIGNATURE)

I hereby certify that this is a true and correct copy of the Proposed Amendment to the Marketing Agreement for Dry Skim Milk, on file in the Office of the Chief Hearing Clerk, United States Department of Agriculture, Agricultural Adjustment Administration.

(Signed) James K. Knudson
Chief Hearing Clerk

Dated: August 14, 1934

Washington, D. C.

PROPOSED AMENDMENT TO THE MARKETING
AGREEMENT FOR DRY SKIM MILK

The parties to this proposed Amendment are the contracting manufacturers of dry skim milk, and the Secretary of Agriculture of the United States.

Whereas, it is the declared policy of Congress as set forth in section 2 of the Agricultural Adjustment Act, approved May 12, 1933, as amended -

"(1) To establish and maintain such balance between the production and consumption of agricultural commodities and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period, the base period in the case of all agricultural commodities except tobacco being the pre-war period, August 1909 - July 1914, and in the case of tobacco, the base period being the post-war period, August 1919 - July 1929;

(2) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets; and

(3) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer, above the percentage which was returned to the farmer in the pre-war period, August 1909 - July 1914;" and

Whereas, pursuant to the provisions of section 3 (2) of the Act, the Secretary of Agriculture of the United States has on the 8th day of September 1933 executed a National Marketing Agreement for Dry Skim Milk (hereinafter called "Marketing Agreement"), by and between the Secretary of Agriculture and the manufacturers of dry skim milk signatory thereto; and

Whereas, it is desired by the parties hereto to amend the aforesaid Marketing Agreement as hereinafter provided:

Now, therefore, the parties hereto agree as follows:

1. That article X of said Agreement, which appears below, be deleted:

"ARTICLE X

PERIOD OF THE AGREEMENT
AMENDMENT
TERMINATION

"This Agreement shall be effective at such time as the Secretary may declare above his signature attached hereto; and this Agreement shall continue in force until the last day of the month following the aforesaid effective date and thereafter from month to month, except that --

(a) The Secretary may (and upon request of 51 percent of the manufacturers, such percentage to be measured by the volume of dry skim milk manufactured during the previous calendar year, the Secretary shall) by press release or other notice, as the Secretary may determine, given on or before the 20th day of any month, terminate this Agreement as of the end of such month.

(b) The Secretary may for good cause shown as of the end of any month terminate this Agreement as to any party signatory hereto by notice in writing deposited on or before the 20th of such month in the registered mails and addressed to such party at the address of such party on file with the Secretary.

(c) This Agreement shall in any event terminate whenever the President or Congress shall terminate the provisions of the act which authorizes this Agreement.

The benefits, privileges, and immunities conferred by virtue of this Agreement shall cease upon its termination, except with respect to acts done prior thereto; and the benefits, privileges, and immunities conferred by virtue of this Agreement upon any party signatory hereto shall cease upon its termination as to such party, except with respect to acts done prior thereto.

This Agreement, or any part thereof including Schedules A, B, C, D, E, and F may be amended by a vote of two thirds of the Committee. Such changes shall be effective only with the written approval of the Secretary. Provided, however, that before such amendment shall be filed with the Secretary all the parties to this Agreement shall be notified in writing by the Managing Agent of such proposed changes and shall be allowed ten days to present objections to such proposed changes to the Committee. Immediately after any such amendment becomes effective, the Managing Agent of the Committee shall send written notification thereof to each of the manufacturers."

2. That the following be substituted as article X of the Marketing Agreement:

" ARTICLE X

EFFECTIVE TIME, TERMINATION AND
AMENDMENTS

This Agreement shall be effective at such time as the Secretary may declare above his signature attached hereto; and this Agreement shall continue in force until the last day of the month following the aforesaid effective date and thereafter from month to month, except that --

(a) The Secretary may (and upon request of 51 percent of the manufacturers, such percentage to be measured by the volume of dry skim milk manufactured during the previous calendar year, the Secretary shall) by press release or other notice, as the Secretary may determine, given on or before the 20th day of any month, terminate this Agreement as of the end of such month.

(b) The Secretary may for good cause shown as of the end of any month terminate this Agreement as to any party signatory hereto by notice in writing deposited on or before the 20th of such month in the registered mails and addressed to such party at the address of such party on file with the Secretary.

(c) This Agreement shall in any event terminate whenever the President or Congress shall terminate the provisions of the act which authorizes this Agreement.

The benefits, privileges, and immunities conferred by virtue of this Agreement shall cease upon its termination, except with respect to acts, done prior thereto; and the benefits, privileges, and immunities conferred by virtue of this Agreement upon any party signatory hereto shall cease upon its termination as to such party, except with respect to acts done prior thereto.

This Agreement, or any part thereof including Schedules A, B, C, D, E, and F may be amended in the following manner:

(a) Whenever the Committee deems it desirable to amend this Agreement, it shall give notice of such proposed amendment to all manufacturers either by publishing a summary thereof in a newspaper of general circulation in the industry or by placing in the mails a copy thereof addressed to each known manufacturer at his last known address.

(b) Upon securing the written approval of contracting manufacturers who distributed not less than sixty-five percent of the total quantity of the commodity distributed by all contracting manufacturers during the preceding season, the Committee may transmit such amendment to the Secretary.

(c) The Secretary may approve such amendment, in which case it shall become effective at such time as the Secretary shall designate; but unless the Secretary shall find that the subject matter of the proposed amendment was included within the scope of the hearing held upon the Agreement pursuant to the Act, or if contracting manufacturers who during the preceding season distributed twenty-five percent of the commodity distributed by all contracting manufacturers during the preceding season shall so request, the Secretary shall not approve any such amendment unless and until due notice and opportunity for hearing have been afforded in accordance with General Regulations of the Agricultural Adjustment Administration, Series 1, Revision 1."

3. That Schedule F of the Marketing Agreement be amended by adding thereto a new paragraph, reading as follows:

"II. (a) The Committee, with the prior approval of the Secretary, may organize a marketing corporation (hereinafter referred to as "Industry Marketing Corporation"), in the formation and operations of which any and all manufacturers of dry skim milk and/or dry buttermilk will be entitled to participate.

(b) The Industry Marketing Corporation shall have the following powers, duties and functions:

(1) To aid all manufacturers of dry skim milk and/or dry buttermilk to successfully merchandise their own product, and to aid in adjusting the production of dry skim milk and/or dry buttermilk to normal consumptive demands.

(2) To encourage each manufacturer to market his product through his own sales facilities or through his cooperative association, as recognized by State or National laws, or through other manufacturers.

(3) To cooperate with the American Dry Milk Institute in advising manufacturers of market possibilities, and assisting manufacturers to produce good quality dry skim milk and/or dry buttermilk.

(4) To purchase from manufacturers any or all of their production that might be considered to be surplus, and for which the manufacturer might be unable to find ready and profitable outlet through his own sales facilities.

(5) To arrange to place in storage any products purchased or to resell any products purchased either through recognized

jobbers or direct to users or to other manufacturers as occasion might require. Such purchases shall be subject to the usual trade terms that might apply to the particular product purchased, as provided in this Agreement. Any purchases made by the Industry Marketing Corporation shall be at prices not greater than representative current delivered market values, less jobbing allowances that are provided in this Agreement, as determined by The Board of Directors of the Industry Marketing Corporation. Purchases of dry skim milk and/or dry buttermilk by the Marketing Corporation from a manufacturer shall be subject to the provisions of article IX of the Marketing Agreement, providing for purchases between manufacturers. Each manufacturer negotiating sales to the Industry Marketing Corporation shall guarantee the quality of any product thus sold to be at least equal to approved grades as specified by the American Dry Milk Institute. Manufacturers may be penalized in prices for off grade product. In arranging resales of any products, the Industry Marketing Corporation shall give careful consideration to constructive sales efforts of other manufacturers so that there shall be no unfavorable reaction on the part of these manufacturers. The Industry Marketing Corporation shall cooperate to the fullest extent with the American Dry Milk Institute in endeavoring to promote and develop new uses, and new outlets for dry skim milk and/or dry buttermilk.

(6) The Industry Marketing Corporation shall file its schedule of selling prices with the Managing Agent pursuant to the provisions of this Agreement.

(c) In order to aid the Industry Marketing Corporation in adjusting the production of dry skim milk and/or dry buttermilk to normal consumptive demands, all manufacturers shall furnish the Marketing Corporation with data representing their estimated production and estimated sales one year in advance, together with estimates of any quantities of their products that they might expect to sell through the Industry Marketing Corporation. These estimates shall be revised every three months, or at intermediate times upon request from the Marketing Corporation.

(d) To provide funds to the Industry Marketing Corporation for the payment of its operating expenses, including expenses incident to arranging purchases as set forth in subdivision (b) above, each manufacturer shall advance to the Corporation one-tenth cent per pound of dry skim milk and/or dry buttermilk produced by such manufacturer during the month of November, 1933, and one-twentieth cent per pound of dry skim milk and/or dry buttermilk produced by such manufacturer during each month thereafter. Such advances shall be payable

either in cash, or in dry skim milk and/or dry buttermilk of equivalent value, to be delivered to the Industry Marketing Corporation. Carload freight shall be paid by the Industry Marketing Corporation, together with the additional cost of barrels or drums if such are used in lieu of bags.

In addition to the foregoing, the Committee may advance to the Industry Marketing Corporation for its aforesaid expenses, such portion of the funds collected pursuant to the Marketing Agreement which are not needed to pay expenses accruing thereunder.

(e) The Industry Marketing Corporation shall be a non-profit organization. At the end of each calendar year, the Corporation (after making reasonable reserves for working capital) shall return to all participating manufacturers all funds on hand, in proportion to the amount of dry skim milk and/or dry buttermilk produced by the manufacturers during such year.

(f) 1. The Industry Marketing Corporation shall from time to time, upon the request of the Secretary, furnish him such information on and in accordance with forms of reports to be supplied by him as may be necessary for the purposes of (1) assisting the Secretary in the furtherance of his powers and duties with respect to this Agreement and/or (2) enabling the Secretary to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Agreement will be effectuated, such reports to be verified under oath. The Secretary's determination as to the necessity of and justification for the making of such reports and the information called for thereby, shall be final and conclusive.

2. The Industry Marketing Corporation also shall agree that for the same purposes and/or to enable the Secretary to verify the information furnished him on said forms of reports, all its books and records and the books and records of its affiliates and subsidiaries (if any) shall during the usual hours of business be subject to the examination of the Secretary. The Secretary's determination as to the necessity of and justification for such examination, shall be final and conclusive.

3. The Industry Marketing Corporation and its affiliates and subsidiaries (if any) shall keep books and records which will clearly reflect all financial transactions of their respective businesses and the financial condition thereof.

4. All information furnished the Secretary pursuant to this article shall remain confidential in accordance with the applicable General Regulations of the Agricultural Adjustment Administration.

5. Any and all acts of the Corporation shall be subject to the continuing right of the Secretary to disapprove of the same at any time."

4. This Amendment to the Marketing Agreement shall become effective at such time as the Secretary may declare above his signature attached hereto.

5. The provisions of the Marketing Agreement, except as amended by this Amendment, shall continue to be in full force and effect.

6. Any and all obligations which have arisen, prior to the effective date of this Amendment, or which may hereafter arise, in connection with, by virtue of or pursuant to the said Marketing Agreement, including provisions which are deleted or modified by this Amendment, and any violations of said Marketing Agreement or of any such provision, shall not be deemed to be affected, waived or terminated by reason of this Amendment.

In witness whereof, the contracting manufacturers acting under the provisions of the Agricultural Adjustment Act, as amended, for the purposes and subject to the limitations therein contained, and not otherwise, have hereunto set their respective hands and seals.

(SEAL)

By: _____

Attest: _____

Whereas, it is provided by section 8 of the Act as follows:

"In order to effectuate the declared policy, the Secretary of Agriculture shall have power * * * (2) After due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, in the current of or in competition with, or so as to burden, obstruct, or in any way affect, interstate or foreign commerce. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful: Provided, That no such agreement shall remain in force after the termination of this Act."

And --

Whereas, due notice and opportunity for hearing to interested parties has been given pursuant to the provisions of the Act, and the regulations issued thereunder; and

Whereas, the Secretary finds (1) that the contracting manufacturers are engaged in the marketing and distribution of dry skim milk in the current of and in competition with, and so as to burden, obstruct, and affect, interstate and foreign commerce; and (2) that the marketing and distribution of such dry skim milk in intrastate commerce is inextricably intermingled with the marketing and distribution of such dry skim milk in interstate and foreign commerce; and

Whereas, it appears, after due consideration, that this Amendment will tend to effectuate the policy of Congress declared in section 2 of the Act, as hereinbefore in this Agreement set forth;

Now, therefore, _____; Secretary of Agriculture, acting under the provisions of the Agricultural Adjustment Act, as amended, for the purposes and within the limitations therein contained, and not otherwise, does hereby execute this Amendment, in duplicate, under his hand and the official seal of the Department of Agriculture, in the City of Washington, District of Columbia, on this _____ day of _____, 1934, and pursuant to the provisions hereof, declares this Amendment to be effective on and after 11:59 p.m., eastern standard time, _____, 1934.

Secretary of Agriculture.

